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2012 JUL -2 PM 3: 37

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

12 **WILLIAM TAYLOR**)
13)
14) **Plaintiff,**)
15)
16) **vs.**)
17) **CITY OF BURBANK, et al.,**)
18) **Defendants.**)
19)
20)
21)
22)
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26)
27)
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Case No. BC422252

Judge: Hon. John Shepard Wiley

**REPLY DECLARATION OF DOUGLAS
G. BENEDON IN SUPPORT OF
ATTORNEYS' FEES MOTION**

Date: July 9, 2012
Time: 8:30 a.m.
Dept.: 50

1 **REPLY DECLARATION OF DOUGLAS G. BENEDON IN SUPPORT OF**
2 **ATTORNEYS' FEES MOTION**

3
4 I, Douglas G. Benedon, declare:

5 1. I am an attorney at law duly licensed to practice before all of the courts in the State
6 of California. I am a partner with the law firm of Benedon & Serlin, co-counsel on appeal for
7 Plaintiff William Taylor ("Plaintiff") in the above action. I have personal knowledge of all facts
8 stated in this declaration and, if called upon as a witness, I could and would competently testify
9 thereto.

10 2. I have reviewed the declaration of Ronald F. Frank in support of Defendant City of
11 Burbank's Opposition to Plaintiff's Motion for Attorney's Fees. In paragraph 13 of his declaration,
12 Mr. Frank points to the billing entry showing that our firm received payment for costs in the amount
13 of \$880.47. Mr. Frank speculates from this entry that this firm is not providing its services on a
14 contingency basis. This is incorrect. The costs of \$880.47 were paid by the Law Offices of Gregory
15 W. Smith, which agreed to partially advance our firm's costs in connection with the writ proceeding.
16 The recovery of these costs by Mr. Smith's office was still contingent on the outcome of this case.
17 In addition, as recognized by Mr. Frank, our firm has incurred an additional \$186.84 in costs which
18 have not been advanced by the Law Offices of Gregory W. Smith. Recovery of these costs is entirely
19 contingent on the outcome of this case.

20 3. I have reviewed the declaration of Robert J. Tyson in Support of Defendant City of
21 Burbank's Opposition To Plaintiff's Motion for Attorney's Fees. Mr. Tyson states in paragraph 6
22 of his declaration that "during oral argument before the Court of Appeal, Plaintiff's appellate counsel
23 immediately conceded that Plaintiff would agree to file the motions under seal as had been requested
24 by Defendant city some *eight months earlier.*" (Original emphasis.) This is a misrepresentation of
25 the record.

26 4. I conducted oral argument before the Court of Appeal on behalf of Plaintiff. There
27 were two consolidated writ proceedings before the Court of Appeal. The first involved the City's
28 challenge to this court's order directing production of documents after it properly conducted an *in*

1 camera inspection. (B230175.) In connection with this oral argument, I agreed, consistent with this
2 court's order that those documents would be produced pursuant to a protective order. The Court of
3 Appeal agreed:

4 "[T]he trial court, at the original hearing on Taylor's discovery motions said it would
5 enter a suitable protective order. At oral argument before this court, Taylor's
6 appellate counsel conceded that a protective order is appropriate. We agree." (Slip
7 opn. 15.)

8 5. The second writ proceeding involved the City's challenge to this court's order
9 denying the City's motion for a protective order to seal Plaintiff's discovery motions. (B229849.)
10 I did not concede that these motions would be filed under seal, as represented by Mr. Tyson. Our
11 firm defended this court's order that Plaintiff could file the motions unsealed. A true and correct
12 copy of Taylor's opposition in B229849 is attached to this declaration as Exhibit A.

13
14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct and was executed on June 28, 2012 at Woodland Hills, California.

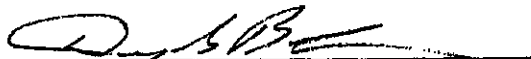
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17 
18 Douglas G. Benedon
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EXHIBIT "A"

1229349

IN THE CALIFORNIA COURT OF APPEALS
SECOND APPELLATE DISTRICT
SOUTHERN DISTRICT

CITY OF BURBANK, CALIF.

Plaintiff,

SUPERIOR COURT OF THE COUNTY OF LOS ANGELES

Defendant.

WILLIAM DAVENOR

Plaintiff,

vs.
THE CALIFORNIA STATE BAR
AND
THE CALIFORNIA JUDICIAL BRANCH

Defendants.

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ON FEBRUARY 1, 1964

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CERTIFICATE OF INTERESTED PARTIES OR ENTITIES

Pursuant to California Rules of Court, rule 8.208(e)(3), I certify that Real Party in Interest William Taylor knows of no entity or person that must be listed under Rule 8.208(e)(1) or (2).

Dated: February 11, 2011 Respectfully submitted,

**LAW OFFICES OF GREGORY W. SMITH
CHRISTOPHER BRIZZOLARA
BENEDON & SERLIN**

A handwritten signature in black ink, appearing to read "Douglas G. Benedon", is written over a horizontal line.

Douglas G. Benedon
Attorneys for Real Party in Interest
WILLIAM TAYLOR

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B229849

**IN THE CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT
DIVISION THREE**

CITY OF BURBANK, et al.,

Petitioners,

vs.

SUPERIOR COURT FOR THE COUNTY OF LOS ANGELES,

Respondent,

WILLIAM TAYLOR,

Real Party in Interest.

**RETURN TO PETITION FOR WRIT OF MANDATE,
PROHIBITION OR OTHER APPROPRIATE RELIEF**

INTRODUCTION

Real Party in Interest William Taylor ("Real Party") – the former Deputy Chief of Police of the Burbank Police Department ("BPD") – brought this action against his former employer, Petitioner City of Burbank ("Burbank" or "City"), after he was demoted, then terminated, in retaliation for complaining that fellow officers in the Burbank Police Department were involved in criminal activity, sexual harassment, and racial discrimination. Real Party served on Burbank's counsel – but did not file – *Pitchess* motions

for discovery of the personnel files of two BPD Officers alleged to have been involved in the criminal activity, harassment, and discrimination, Petitioners Jay Jette and Eric Rosoff.

Petitioners sought an order compelling Real Party to file his motions under seal because, according to Petitioners, Real Party's counsel's declaration in support of the motions contains privileged information from the officers' personnel files. Respondent Court, informed by our Supreme Court's guidelines, examined the motions, weighed the parties' competing interests, and concluded the motions did not contain information requiring they be filed under seal. Rather, the motions are based on counsel's factual allegations on information and belief, derived from counsel's own investigative efforts. Respondent Court's determination was a proper exercise of discretion. Writ relief should be denied.

**RETURN BY ANSWER TO PETITION FOR WRIT OF
MANDATE, PROHIBITION OR OTHER APPROPRIATE
RELIEF**

Real Party in Interest William Taylor (Real Party), in answer to petitioners' City of Burbank, Jay Jette, and Eric Rosoff (Petitioners) Petition for Writ of Mandate, Prohibition or Other Alternative Relief (the Petition) admits, denies, and alleges, as follows:

1. Admits the Petition seeks relief from Respondent Court's order of December 15 2010. Real Party denies the balance of this paragraph as conclusion and legal argument rather than verifiable factual allegations.
2. Admits the allegations in paragraph 2.
3. Admits the allegations in paragraph 3.
4. Denies the allegations in paragraph 4 as conclusion and legal argument rather than verifiable factual allegations.
5. Admits the allegations in paragraph 5, except for footnote 2, which Real Party denies as conclusion and legal argument rather than verifiable factual allegations.
6. Admits the allegations in paragraph 6 that Real Party served on Petitioner Burbank but did not file two motions pursuant to Evidence Code

section 1043 entitled "Motion for Discovery of Peace Officer Personnel and Other Records" regarding Burbank Police Department ("BPD") Lieutenants Eric Rosoff and Jay Jette. Real Party denies the remaining allegations in paragraph 6 and footnote 4 as conclusion and legal argument rather than verifiable factual allegations.

7. Denies the allegations in paragraph 7 as conclusion and legal argument rather than verifiable factual allegations.

8. Admits the allegations in paragraph 8.

9. Admits the allegations in paragraph 9.

10. Admits the allegations in paragraph 10.

11. Admits the allegations in paragraph 11 except for the allegations regarding the City's motivation for its conduct, which Real Party lacks sufficient information to admit or deny.

12. Admits the allegations in paragraph 12 except for the allegation that Respondent Court "denied the City's request to make an appropriate order," which Real Party denies as conclusion and legal argument rather than verifiable factual allegations.

13. Admits the allegations in paragraph 13.

14. Admits the allegations in paragraph 14 that Petitioners Jette and Rosoff filed a motion for a protective order sealing Real Party's *Pitchess*

motions and that Petitioner City joined in this motion. Admits the allegations Petitioners Jette and Rosoff also filed an *ex parte* application to conditionally lodge Real Party's motions under seal and that Petitioner City joined in this application. Denies the remaining allegations in paragraph 14 as conclusion and legal argument rather than verifiable factual allegations.

15. Admits the allegations in paragraph 15 that Real Party filed an opposition and Petitioners filed a reply. Denies the remaining allegations of paragraph 15 as conclusion and legal argument rather than verifiable factual allegations.

16. Admits the allegation in paragraph 16 that Respondent Court continued the hearing on its own motion. Denies the remaining allegations as speculation, conclusion, and legal argument rather than verifiable factual allegations.

17. Admits the allegations in paragraph 17 that Respondent Court denied Petitioners' motion on December 15, 2010 as set forth in the reporter's transcript and minute order of that proceeding. Denies the remaining allegations in paragraph 17 as speculation, conclusion, and legal argument rather than verifiable factual allegations.

18. Admits allegations in paragraph 18 regarding the authenticity of Respondent Court's statements as set forth in the reporter's transcript and

minute order of the December 15, 2010 hearing. Denies the remaining allegations in paragraph 18 as speculation, conclusion, and legal argument rather than verifiable factual allegations.

19. Admits the allegations in paragraph 19 regarding the authenticity of Respondent Court's statements as set forth in the reporter's transcript and minute order of the December 15, 2010 hearing. Denies the remaining allegations in paragraph 19 as speculation, conclusion, and legal argument rather than verifiable factual allegations.

20. Admits the allegations in paragraph 20.

21. Denies the allegations in paragraph 21 as conclusion and legal argument rather than verifiable factual allegations.

22. Denies the allegations in paragraph 22 as conclusion and legal argument rather than verifiable factual allegations.

23. Denies the allegations in paragraph 23 as conclusion and legal argument rather than verifiable factual allegations.

Real Party alleges the following additional facts:

Authenticity Of Exhibits.

24. All exhibits accompanying this Return are true copies of original documents on file with respondent court. The exhibits are incorporated herein by reference as though fully set forth in this petition. The exhibits are tabbed and paginated consecutively, and page references in this Return are to the consecutive pagination. (Cal. Rules of Court, rule 8.486(c).)

Factual And Procedural Chronology.

**A. Real Party, The Former Deputy Chief Of The
Burbank Police Department, Alleges He Is Demoted,
Then Terminated, For Engaging In Protected
Activity.**

25. On September 22, 2009, Real Party – the former Deputy Chief of the Burbank Police Department (“BPD”) – filed a complaint against Petitioner City of Burbank (“Burbank”) for damages alleging causes of action for retaliation in violation of Labor Code section 1102.5, the whistle-blower statute, and retaliation in violation of the California Fair Employment and

Housing Act (Gov. Code, §§ 12940, et seq.). (Exh. A at pp. 1-16.) Real Party alleged that, in retaliation for his making complaints about sexual harassment, criminal activity, and racial discrimination within the BPD, he was demoted from the rank of Deputy Chief to Captain. (Exh. A at pp. 4-11.)

26. On January 12, 2011, Real Party filed a First Amended Complaint alleging that on or about June 10, 2010, the BPD terminated his employment in retaliation for his making complaints about sexual harassment, criminal activity, and racial discrimination, and for filing a claim and bringing an action against Burbank on his retaliation claim. (Exh. 1.)

B. Real Party Serves, But Does Not File, *Pitchess* Motions For Production Of The Personnel Records Of BPD Officers Jette And Rosoff.

27. On August 25, 2010, Real Party personally served on counsel for Burbank Motions For Discovery Of Peace Officer Personnel And Other Records regarding BPD Lieutenants Jay Jette and Eric Rosoff. (Exh. B at p. 31; Exh. CC at pp. 318-356; Exh DD at pp. 358-398.) The motions were supported by the declaration of Real Party's counsel. (Exh. CC at pp. 343-353; Exh. DD at pp. 381-395.) Real Party's counsel agreed to delay filing the

motions until Petitioners could file an *ex parte* application to have the motions filed under seal. (Exh. B. at p. 31.)

28. Burbank brought an *ex parte* application to seal Real Party's motions for discovery. Burbank argued the declaration of Real Party's counsel in support of the motions disclosed too much confidential information. (Exh. B at pp. 25-33.) Real Party filed opposition, explaining that the declaration of counsel on information and belief is the proper method for establishing good cause for discovery. (Exh. C. at pp. 35-48.) After hearing argument, Respondent Court denied Burbank's application for *ex parte* relief, explaining "the basis of [its] ruling as a complete absence of a factual record warranting *ex parte* relief." (Exh. E at p. 68; Exh. F at p. 82.) Respondent Court granted Petitioners' Jette and Rosoff's request to file a noticed motion for a protective order, in which the City stated it would join. Respondent Court ordered Real Party not to file his *Pitchess* motions until after the Petitioners' noticed motion for a protective order had been determined. (Exh. E at pp. 74-78, 80; Exh. F at p. 82.)

**C. Respondent Court Denies Petitioners' Motion For A
Protective Order That Would Require Real Party To
File His Motions Under Seal.**

29. Petitioners filed a motion seeking a protective order requiring Real Party to file his discovery motions under seal, asserting the same argument advanced in the *ex parte* application. (Exhs. G-J.) Real Party lodged opposition. (Exh. V.) Petitioners filed a reply. (Exhs. W-Y.)

30. After examining Real Party's *Pitchess* motions – which had been filed under seal – Respondent Court denied Petitioners' motion for a protective order requiring Real Party to file his motions under seal. (Exh. AA.) Respondent Court stated that, while Petitioners sought to protect from public view "claims of wrongdoing within the department," this concern was "outweighed by three factors." (Exh. BB at p. 303.) Respondent Court explained:

"First, . . . there is a highly abstract but nonetheless highly important principle of American jurisprudence of public access to courts. That's embodied in our Rules of Court, in the *Eastwood* [*v. Superior Court* (1983) 149 Cal.App.3d 409] decision, and it forms a presumption about the openness of courts that really is a bedrock principle. . . . [T]he principle remains that the public, that great abstract group who always has a residual concern about how courts are operating, does have the means to gain access any time any member of the

public so wishes. So that's the first point." (Exh. BB at pp. 303-304.)

31. Respondent Court explained the second factor:

"The second point is that it seems to me from an examination from the material that's under seal right now that I recognize this as [Real Party's] story in the case. . . . [¶] This account of the world is certain to be aired at trial. It is in the nature of employment cases that the jury is asked to enter the office, enter the workplace, as it existed during the controversy, during the turmoil. It would be remarkable, indeed, if the trial did not go directly to all of these claims of dirty laundry. It is [Real Party's] position that the laundry, indeed, is dirty and he's the victim. [Petitioners], no doubt take a different view. But the trial is a search for the truth and in pursuit of the truth, the facts will come out according to all sides' direct examination and cross-examination." (Exh. BB at pp. 304-305.)

32. Respondent Court explained the third factor:

"I do agree that the eight pages or whatever number of pages are in these briefs' factual account portions . . . it is a detailed account. However, from what I can understand, [Real Party's] counsel's claim is that they are investigating matters, they're involved in allied cases. In a sense, they are akin to journalists or private investigators themselves and they have sources. Certainly their client is a potential source. But they now fancy themselves to be experts in the history of the Burbank Police Department at the time in question.

"Now, the trial will expose the weaknesses and the faults in their investigation and their surmises and their hypotheses, but I do think there's quite a difference between a lawyer's declaration on information and belief and a claim that some authority deserving of respect has found these facts to be true. [¶]

"This is litigation. In litigation parties in conflict make claims about each other, and as detailed as the claims may be, anybody

who's been around a courtroom for very long has seen detailed accounts of the world crash down on cross-examination where a whole new vista is revealed through a skillful destruction of a hypothesis or an allegation. I regret that in the process, claims are made that may disparage the integrity of people who have devoted their life to their community, but I think there is no practical alternative here once litigation is commenced." (Exh. BB at pp. 305-307.)

33. Respondent Court stayed the case until December 30, 2010 to allow Petitioners to seek relief from this Court. (Exh. AA.)

34. On January 12, 2011, this Court issued an Order to Show cause directing the parties to show cause why the relief requested in the Petition should not be granted. On January 19, 2011, this Court issued an Order to Show Cause, consolidating the writ proceedings in B230175 with B229849, and directing the parties to show cause why the relief requested in the petitions should not be granted.

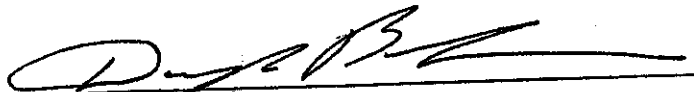
PRAYER

Real Party in Interest, William Taylor, prays that this Court

1. Deny the Petition for Writ of Mandate, Prohibition or Other Alternative Relief;
2. Award Real Party his costs pursuant to rule 8.490(m) of the California Rules of Court; and
3. Grant such other relief including attorneys' fees as may be just and proper.

Dated: February 11, 2011 Respectfully submitted,

**LAW OFFICES OF GREGORY W. SMITH
CHRISTOPHER BRIZZOLARA
BENEDON & SERLIN**



Douglas G. Benedon
Attorneys for Real Party in Interest
WILLIAM TAYLOR

VERIFICATION

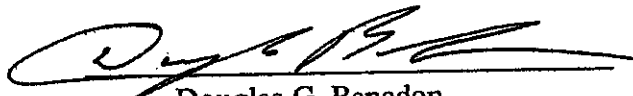
I, Douglas G. Benedon, declare,

1. I am one of the attorneys for Real Party William Taylor.

Because of my familiarity with the relevant facts pertaining to the trial court proceedings, I, rather than Petitioner, verify this petition.

2. I have read the foregoing Return to Petition for Writ of Mandate and/or Prohibition or Other Appropriate Relief and know its contents. The facts alleged in the Return are within my own knowledge and I know these facts to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on February 11, 2011 at Woodland Hills, California.



Douglas G. Benedon

MEMORANDUM

I.

THE *PITCHESS* PROCEDURE.

"For approximately a quarter-century our trial courts have entertained what have become known as *Pitchess*^[1] motions, screening law enforcement personnel files in camera for evidence that may be relevant to a criminal defendant's defense." (*People v. Mooc* (2001) 26 Cal.4th 1216, 1225, fn. omitted (*Mooc*).) In order to balance the defendant's right to discovery of records pertinent to the defense with the peace officer's reasonable expectation that the officer's personnel records will remain confidential, the Legislature has adopted a statutory scheme requiring a defendant to meet certain prerequisites before a *Pitchess* request may be considered. (See, Pen. Code, §§ 832.5, 832.7, 832.8; Evid. Code, §§ 1043-1047.) These statutes apply equally to civil and criminal discovery. (*Haggerty v. Superior Court* (2004) 117 Cal.App.4th 1079, 1085 (*Haggerty*); *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1423-1424.)

Under the statutory scheme, a party seeking discovery of a peace officer's personnel records must follow a two-step process. (*Mooc, supra*,

¹ *Pitchess v. Superior Court* (1974) 11 Cal.3d. 531 (*Pitchess*)

26 Cal.4th at p. 1226; *Haggerty, supra*, 117 Cal.App.4th at p. 1085.) First, the party seeking discovery must file a written motion describing “the type of records or information sought.” (Evid. Code, § 1043, subds. (a), (b)(2).) The motion must include “[a]ffidavits showing good cause for the discovery or disclosure sought, setting forth the materiality thereof to the subject matter involved in the pending litigation and stating upon reasonable belief that the governmental agency identified has the records or information from the records.” (Evid. Code, § 1043, subd. (b)(3).)

“The affidavits may be on information and belief and need not be based on personal knowledge [citation], but the information sought must be requested with sufficient specificity to preclude the possibility of a defendant’s simply casting about for any helpful information.” (*Mooc, supra*, 26 Cal.4th at p. 1226; *City of Santa Cruz v. Municipal Court* (1989) 49 Cal.3d 74, 86 (*City of Santa Cruz*).) Therefore, although the threshold showing required to obtain *Pitchess* discovery is a “relatively relaxed standard” (*City of Santa Cruz, supra*, 49 Cal.3d at p. 84; accord, *Garcia v. Superior Court* (2007) 42 Cal.4th 63, 70 (*Garcia*)), an affidavit submitted in support of a *Pitchess* motion must “describe a factual scenario supporting the claimed officer misconduct” (*Warrick v. Superior Court* (2005) 35 Cal.4th 1011, 1024.)

Second, once the trial court concludes a defendant has satisfied these prerequisites and made a showing of good cause, the custodian of records is obligated to bring to court all documents "potentially relevant" to the defendant's motion." (*Mooc, supra*, 26 Cal.4th at p. 1226; *Haggerty, supra*, 117 Cal.App.4th at p. 1086.) The trial court must then examine the information in chambers, "out of the presence and hearing of all persons except the person authorized [to possess the records] and such other persons [the custodian of records] is willing to have present." (Evid. Code, §§ 915, subd. (b), 1045, subd. (b).) The trial court should then disclose to the party seeking discovery "such information [that] is relevant to the subject matter involved in the pending litigation." (*Id.*; Evid. Code, § 1045, subd. (a).)

The statutory scheme authorizes the trial court to make appropriate protective orders limiting disclosure of information. Thus, the court, "[u]pon motion seasonably made by the governmental agency which has custody or control of the records to be examined or by the officer whose records are sought" (Evid. Code, § 1045, subd. (d)), may make such orders "which justice requires to protect the officer or agency from unnecessary annoyance, embarrassment or oppression" (*ibid*). The court shall also order that any peace officer records disclosed "not be used for any purpose other than a court proceeding pursuant to applicable law." (*Id.*, subd. (e).)

A trial court has broad discretion in ruling on a *Pitchess* motion, and a reviewing court will not reverse the trial court's determination except on a showing that the trial court has abused this discretion. (*Mooc, supra*, 26 Cal.4th at p. 1228; *People v. Jackson* (1996) 13 Cal.4th 1164, 1220-1221; *People v. Breaux* (1991) 1 Cal.4th 281, 311-312; *Haggerty, supra*, 117 Cal.App.4th at p. 1086; *People v. Gill* (1997) 60 Cal.App.4th 743, 749.)

II.

THE TRIAL COURT'S DENIAL OF PETITIONERS' MOTION TO SEAL THE *PITCHESS* MOTIONS WAS A PROPER EXERCISE OF DISCRETION.

A. The Trial Court Should Order A *Pitchess* Motion Sealed Only After Weighing The Parties' Competing Interests, And Concluding There Are No Other Feasible Alternatives.

In *Garcia*, the Supreme Court addressed the issue "whether a *Pitchess* affidavit may be filed under seal." The Court concluded the determination to allow the filing of such documents under seal is left to the "inherent discretion" of the trial court "to protect against revelation of privileged information. [Citation.]" (*Garcia, supra*, 42 Cal.4th at p. 72.) The Court did, however, offer some guidance to the trial court in exercising that discretion.

Garcia involved a criminal defendant who filed a motion for discovery of law enforcement personnel records under *Pitchess*. In support, he filed a declaration under seal asserting, inter alia, that the declaration contained

information protected by the attorney-client and work product privileges. The Court concluded "that the trial court may permit a defendant to file a *Pitchess* declaration under seal if the court determines that such a filing is necessary." (*Garcia, supra*, 42 Cal.4th at p. 68, added emphasis.)

The Court explained that, "[w]hile the trial court has discretion to permit filing of a *Pitchess* affidavit under seal, it is not 'bound by defendant's naked claim of confidentiality.' [Citation.]" (*Garcia, supra*, 42 Cal.4th at p. 72.) Rather, "in ruling on a request to file under seal, a trial court must carefully weigh" the competing concerns between the party seeking discovery's need for disclosure and the officer's expectation of privacy. (*Id.*) "[F]iling under seal will usually be unnecessary" (*ibid*), and may be ordered only when "filing under seal is the only feasible way to protect" privileged information (*id.*, at p. 73).

B. Respondent Court Carefully Weighed The Parties' Competing Interests And Concluded It Was Neither Necessary Nor Appropriate To Order Real Party's Pitchess Motions To Be Filed Under Seal.

Respondent Court was not bound by Petitioners' "naked claim" that Real Party's *Pitchess* motions disclosed confidential information which had to be sealed. Rather, Respondent Court was to make its own determination based on the nature of the information, and the parties' competing interests. (*Garcia, supra*, 42 Cal.4th at p. 72.) Respondent Court fulfilled that mandate.

Respondent Court articulated three reasons why it was not necessary to seal the motions. First, Respondent Court relied on the fundamental principle of public access to the courts. (Exh. BB at pp. 303-304.) This reliance was proper. "The law favors maximum public access to judicial proceedings and court records. [Citations.] Judicial records are historically and presumptively open to the public and there is an important right of access which should not be closed except for compelling countervailing reasons. [Citation.]" (*Pantos v. City and County of San Francisco* (1984) 151 Cal.App.3d 258, 262-263; see also, *In re Marriage of Lechowick* (1998) 65 Cal.App.4th 1406, 1413 [same]; *Champion v. Superior Court* (1988)

201 Cal.App.3d 777, 788 ["We must be vigilant to ensure that nothing presented to the court is sealed without a strong justification"]; *Estate of Hearst* (1977) 67 Cal.App.3d 777, 785 [a trial court possesses "limited power, exercisable under exceptional circumstances and on a showing of good cause, to restrict public access to portions of court records on a temporary basis"].)

Petitioners claim Respondent Court erred in relying on this factor because it is also articulated in California Rules of Court, rule 2.550. (Pet. at pp. 22-24; see, Cal. Rules of Court, rule 2.550(c) ["Unless confidentiality is required by law, court records are presumed to be open"].) Petitioners are correct that Rule 2.550 does not apply in discovery proceedings. (Cal. Rules of Court, rule 2.550(a)(3) ["These rules do not apply to discovery motions"].) Real Party acknowledged this in his briefing to Respondent Court. (Exh. D at pp. 44-45.) However, the fact the bedrock principle of open access to the courts is set forth in an inapplicable rule of court as well as in applicable case law – as stated by Respondent Court – does nothing to undermine this principle, or transform Respondent Court's proper reliance on this factor into an abuse of discretion. (See, Exh. BB at pp. 302-303 ["I do believe . . . there is a highly abstract but nonetheless highly important principle of American jurisprudence of public access to the courts. That's embodied in our Rules of Court in the *Eastwood* decision, and it forms a presumption about the

openness of courts that really is a bedrock principle”]; see, e.g., *Pantos v. City and County of San Francisco*, *supra*, 151 Cal.App.3d at pp. 262-263.)

Second, Respondent Court determined based on its examination of the sealed materials that the allegations in Real Party’s *Pitchess* motions were merely Real Party’s account of events, which were “hotly contested” by Petitioners. (Exh. BB at p. 304.) Respondent Court recognized the practical reality of the highly-charged nature of allegations of sexual harassment and racial discrimination in the workplace, and that trial would be the place where “the facts will come out according to all sides’ direct examination and cross-examinations.” (*Id.*, at p. 305.)

Petitioners’ charge Respondent Court with having created an “inevitability exception to Penal Code section 832.7,” claiming the court “simply threw up its hands in exasperation” rather than exercise its judicial discretion. (Pet. at pp. 24-25.) The record belies Petitioners’ charge. Respondent Court was not bound by Petitioners’ “naked claim” that Real Party’s *Pitchess* motions disclosed confidential information which had to be sealed, no matter how many times Petitioners chose to repeat it. Rather, Respondent Court made its own determination based on the nature of the information, and the parties’ competing interests. (*Garcia, supra*, 42 Cal.4th at p. 72.) That is what the court did.

Petitioners also accuse Respondent Court of having "pre-determined" its rulings on the *Pitchess* motions. (Pet. at pp. 24-25.) The record does not support this accusation either. Respondent Court made no determination on what documents would be disclosed, much less what documents or information would be admissible at trial. (Exh. BB at pp. 304-305.) Respondent Court merely made the practical observation that Real Party, and Petitioners, would argue their version of the facts to the jury. (*Ibid.*)

Third, Respondent Court cited to the fact that, while the motions contained detailed factual accounts, these allegations were based on counsel's declaration on information and belief, as opposed to "a claim that some authority deserving of respect has found these facts to be true." (Exh. BB at p. 306.) That is precisely the purpose and scope of a declaration in support of a *Pitchess* motion. (See, *Garcia, supra*, 42 Cal.4th at p. 70 ["Assertions in the affidavits 'may be on information and belief and need not be based on personal knowledge [citation], but the information sought must be requested with sufficient specificity to preclude the possibility of a defendant simply casting about for any helpful information'"].)

Petitioners argue Respondent Court committed error because Real Party was not permitted to disclose in the declarations what Petitioners characterize as "confidential police personnel information." (Pet. at pp. 25-30.)

Respondent Court was not bound by this "naked claim," but rather could, and did, make its own determination as to the nature of the information. (*Garcia, supra*, 42 Cal.4th at p. 72.) Respondent Court noted that, in preparing his declaration, counsel could rely on information and sources which he had discovered as part of his investigation of other cases. (Exh. BB at p. 306.) Such use of derivative material in counsel's declaration is proper, and is not privileged information. (See, *Chambers v. Appellate Division of the Superior Court* (2007) 42 Cal.4th 673, 676 ["[D]erivative information, developed by independent investigation after *Pitchess* disclosure in an earlier case, is [generally not] subject to a protective order under Evidence Code section 1045, subdivision (c)".])

Fagan v. Superior Court (2003) 111 Cal.App.4th 607 (*Fagan*) relied on by Petitioners does not support a different result. (Pet. at pp. 29-31.) In *Fagan*, the deputy district attorney at issue obtained the peace officers' urinalysis results contained within their personnel records without first filing a *Pitchess* motion. The records that were ordered sealed were the peace officers' records that had been obtained without the filing of a *Pitchess* motion. Nowhere in the *Fagan* case did the Court of Appeal hold or indicate in any manner that a *Pitchess* motion seeking the discovery of the peace officer personnel records at issue therein should be ordered sealed, or that such

a sealing order would in any manner be consistent with the *Pitchess* procedure.

Indeed, exactly the opposite is true. The Court of Appeal in *Fagan* never held or implied that a *Pitchess* motion seeking the peace officer personnel records at issue therein should be filed under seal under any circumstances.

Petitioners are seeking to place Real Party, and every other party seeking *Pitchess* discovery, in an impossibly uncertain position. In this case, they are arguing Real Party's "*Pitchess* Motions go far beyond what is expected or required in order to establish materiality and good cause for discovery of police personnel records." (Pet. at p. 32.) Following this argument, counsel should file a declaration which does not contain any specific facts in support of the motion. At the same time, in the consolidated writ proceeding (B230175), Petitioners argue discovery should be denied because counsel's declaration does not contain enough factual allegations to establish good cause. How much is enough and how much is too much? Petitioners do not answer this question. The Supreme Court, however, has. (See, *Garcia, supra*, 42 Cal.4th at p. 70 ["Assertions in the affidavits 'may be on information and belief and need not be based on personal knowledge [citation], but the information sought must be requested with sufficient

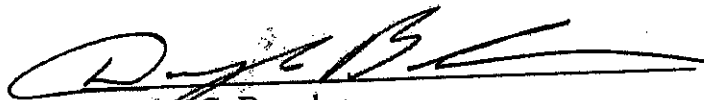
specificity to preclude the possibility of a defendant simply casting about for any helpful information”].) Respondent Court, informed by clear Supreme Court guidance and based on its careful balancing of the parties’ competing interests, determined sealing of Real Party’s *Pitchess* motions was not warranted. (*Garcia, supra*, 42 Cal.4th at p. 73.) This was a proper exercise of discretion.

CONCLUSION

Real Party filed *Pitchess* motions supported by the declaration of his counsel which, based on counsel's investigation, set forth on information and belief sufficient facts to establish good cause for the requested documents. Respondent Court examined the motions, weighed the parties' competing interests, and concluded it was neither necessary nor appropriate to order the motions to be filed under seal. This was a proper exercise of discretion. Extraordinary relief from this Court is unwarranted.

Dated: February 11, 2011 Respectfully submitted,

**LAW OFFICES OF GREGORY W. SMITH
CHRISTOPHER BRIZZOLARA
BENEDON & SERLIN**

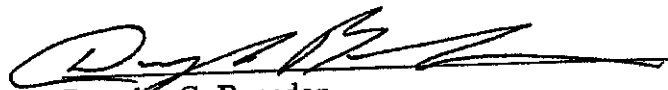
A handwritten signature in dark ink, appearing to read 'Douglas G. Benedon', written over a horizontal line.

Douglas G. Benedon
Attorneys for Real Party in Interest
WILLIAM TAYLOR

CERTIFICATE OF COMPLIANCE

Pursuant to California Rules of Court, rules 8.204 and 8.490, I certify that the total word count of the Return By Answer To Petition for Writ of Mandate, excluding covers, table of contents, table of authorities, and certificate of compliance is 4,819.

Dated: February 11, 2011 Respectfully submitted,
**LAW OFFICES OF GREGORY W. SMITH
CHRISTOPHER BRIZZOLARA
BENEDON & SERLIN**



Douglas G. Benedon
Attorneys for Real Party in Interest
WILLIAM TAYLOR

LIST OF EXHIBITS

TAB	DOCUMENT	PAGE
1	FIRST AMENDED COMPLAINT FOR DAMAGES (1/12/11)	1

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14 WILLIAM TAYLOR

15 **UNLIMITED JURISDICTION**

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES**

18 WILLIAM TAYLOR,

19 Plaintiff,

20 vs.

21 CITY OF BURBANK and DOES 1 through
22 100, inclusive,

23 Defendants.

CASE NO. BC 422 252

[Assigned to John Shepard Wiley, Jr.,
Judge, Dept. "50"]

FIRST AMENDED
COMPLAINT FOR DAMAGES:

1. RETALIATION (LABOR CODE
SECTION 1102.5)
2. RETALIATION IN VIOLATION
OF THE CALIFORNIA FAIR
EMPLOYMENT

DEMAND FOR JURY TRIAL

Action Filed: September 22, 2009

GENERAL ALLEGATIONS

1. At all times relevant hereto, Plaintiff William Taylor ("Plaintiff") was a sworn California peace officer residing in the County of Los Angeles, State of California, and was and is a competent adult. Plaintiff was wrongfully terminated from his employment on or

1 about June 10, 2010 for filing a Charge of Retaliation and suing the City of Burbank for
2 violations of the Fair Employment and Housing Act.

3 2. Plaintiff is informed and believes and thereon alleges that, at all times
4 relevant hereto, Defendant City of Burbank ("City"), was an entity committing torts and
5 violating laws in and engaged as a matter of commercial actuality in purposeful economic
6 activity within the County of Los Angeles, State of California. At all times pertinent hereto,
7 Defendant City owned, controlled, and operated the law enforcement agency known as
8 the Burbank Police Department.

9 3. Plaintiff is informed and believes and thereupon alleges that defendants
10 DOES 1 through 33, inclusive, and each of them, were, at all times relevant hereto, public,
11 business, and/or other entities whose form is unknown, committing torts in and/or
12 engaged as a matter of commercial actuality, in purposeful economic activity within the
13 County of Los Angeles, State of California.

14 4. Plaintiff is informed and believes and thereupon alleges that defendants
15 DOES 34 through 67, inclusive, and each of them, were, at all times relevant hereto,
16 individuals, residing in and/or committing torts within the County of Los Angeles, State of
17 California.

18 5. Plaintiff is informed and believes and thereupon alleges that DOES 68
19 through 100 inclusive, and each of them, at all times relevant hereto, were residents of the
20 County of Los Angeles, State of California, and were agents, partners, and/or joint
21 venturers of defendants and/or DOES 1 through 33, inclusive, acting as supervisors,
22 managers, administrators, owners, and/or directors or in some other unknown capacity.

23 6. The true names and capacities of defendants DOE 1 through 100, and each
24 of them, whether individual, corporate, associate or otherwise, are unknown to Plaintiff at
25 this time, who therefore sues said defendants by such fictitious names. Plaintiff will file
26 DOE amendments, and/or ask leave of court to amend this complaint to assert the true
27 names and capacities of these defendants when they have been ascertained. Plaintiff is
28 informed and believes, and upon such information and belief alleges, that each defendant

1 herein designated as a DOE was and is in some manner, negligently, wrongfully, or
2 otherwise, responsible and liable to Plaintiff for the injuries and damages hereinafter
3 alleged, and that Plaintiff's damages as herein alleged were proximately caused by their
4 conduct.

5 7. Plaintiff is informed and believes, and thereon alleges, that at all times
6 material herein the defendants, and each of them, were the agents, servants, and
7 employees, or ostensible agents, servants, or employees of each other defendant, and as
8 such, were acting within the course and scope of said agency and employment or
9 ostensible agency and employment, except on those occasions when defendants were
10 acting as principals, in which case, said defendants, and each of them, were negligent in
11 the selection, hiring, and use of the other defendants.

12 8. Each defendant principal and/or employer herein had advance knowledge of
13 the unfitness of each defendant agent and/or employee, and employed each such agent
14 and/or employee with a conscious disregard of the rights or safety of others or otherwise
15 authorized or ratified the wrongful conduct of each such agent and/or employee. As to
16 each such corporate or other entity defendant herein, the advance knowledge and
17 conscious disregard, authorization, ratification, or act of oppression, fraud, or malice was
18 on the part of an officer, director, or managing agent of the corporation or other entity.

19 9. Plaintiff is further informed and believes that at all times relevant hereto,
20 defendants, and each of them, acted in concert and in furtherance of the interests of each
21 other defendant.

22 10. This court is the proper court because injury or damage to Plaintiff occurred
23 in its jurisdictional area.

24 11. Plaintiff has complied with and/or exhausted any applicable claims statutes
25 and/or administrative and/or internal remedies and/or grievance procedures, or is excused
26 from complying therewith. Attached hereto as Exhibits "1" and "2" are true and correct
27 copies of the Government Claim for Damages, and Amended Government Claim for
28 Damages Pursuant to Government Code Sections 905 and 910, filed on or about August

1 3, 2009 and June 4, 2010. The City failed to respond to the notice within the 45-day
2 period set forth in the Government Code for the August 3, 2009 filing. Attached hereto as
3 Exhibit "3" is a true and correct copy of a Second Amended Government Claim for
4 Damages filed on or about August 30, 2010. Attached hereto as Exhibits "4" and "5" are
5 true and correct copies of Right to Sue Notices received by Plaintiff from the California
6 Department of Fair Employment and Housing received June 15, 2009 and June 10, 2010,
7 respectively.

8 12. Plaintiff herein was and is employed by Defendant City and the Burbank
9 Police Department.

10 **FIRST CAUSE OF ACTION FOR**
11 **RETALIATION (LABOR CODE SECTION 1102.5)**

12 13. Plaintiff repeats and re-alleges each and every allegation set forth above,
13 and incorporates same by reference as though set forth fully herein.

14 14. Plaintiff disclosed information to the City of Burbank and the Burbank Police
15 Department, government and law enforcement agencies, which Plaintiff had reasonable
16 cause to believe disclosed violations of state or federal statutes, or violation or
17 noncompliance with state or federal rules or regulations, by other employees of the City of
18 Burbank and the Burbank Police Department, including but not limited to:

19 a. During March 2009, a sworn employee of the Burbank Police Department
20 was accused of sexually harassing numerous females at the Burbank
21 Animal Shelter. The employee was accused of inappropriate sexual
22 comments, acts and gestures. When Plaintiff was notified of the allegations
23 of sexual harassment, he recommended to Chief of Police Tim Stehr
24 that the employee be placed on administrative leave pending an
25 investigation. Chief of Police Stehr became angry and demanded that
26 the employee not be placed on administrative leave for a long period of
27 time and ultimately directed Plaintiff to bring the employee back to work
28 prematurely before sufficient investigation had been undertaken. Stehr

1 minimized complaints of sexual misconduct and frowned upon Plaintiff for
2 reporting it and taking the issue seriously. This employee was subsequently
3 accused of other acts of sexual harassment. Plaintiff informed the City
4 Manager, Mike Flad, about this incident and that it was handled
5 inappropriately on or about April or May 2009.

- 6 b. Plaintiff repeatedly complained from April 2008 through April 2009, to Stehr
7 that minority (African-American and Hispanic) probationary police officers
8 were being singled out by the Patrol Captain, Pat Lynch, at the time, and
9 some of his staff, for termination on account of their race. Plaintiff was able
10 to stop the terminations by refusing to support the record that had been
11 unjustly prepared to support the potential terminations. The discriminatory
12 actions Plaintiff witnessed towards African-American and Hispanic police
13 officers was systemic and rampant and sanctioned by the Chief of Police
14 Tim Stehr. Plaintiff had a good faith and reasonable belief that the unjust
15 attempts to terminate minority probationary officers was a violation of federal
16 and state statutes and law (specifically Government Code sections 12940 et.
17 seq.). Plaintiff was hesitant to complain to Stehr because in or around the
18 Fall of 2008, Stehr stated very casually during a management team meeting,
19 with approximately 20 plus attendees, none of whom were African-
20 American, I remember a time when it was okay to use the word "nigger"
21 around here, but times have changed. On information and belief, Plaintiff
22 alleges that Stehr was uncomfortable with the fact that more minorities,
23 including African-Americans were seeking employment with the Burbank
24 Police Department. On or about April or May 2009, Plaintiff informed the City
25 Manager that high ranking department personnel were attempting to unfairly
26 terminate probationary minority officers solely because of their race. The
27 City Manager took no action after Plaintiff's Complaint, but was instrumental
28 in demoting Plaintiff from Deputy Chief to the rank of Captain shortly after

1 Plaintiff made his complaint. The demotion was initiated by Chief Stehr in
2 retaliation for Plaintiff's Complaints of racial discrimination.

3 c. In or about January 2007, an IA investigation had been initiated based upon
4 an allegation that a lieutenant, while he held the rank of sergeant, had used
5 excessive force against a suspect. The investigation was conducted,
6 interviews were taken, and evidence was gathered. In or around 2007 all of
7 the documents, flash drive and interview tapes pertaining to the case that
8 were stored in a locked office in the Burbank Police Department were stolen.
9 The theft could have only been committed by an employee of the Burbank
10 Police Department. In a memo to Stehr dated November 19, 2007, Plaintiff
11 requested that an outside agency be contacted and brought into the
12 Burbank Police Department to investigate what was certainly a burglary
13 within the Department by Department employees. In the memo, Plaintiff
14 specifically requested that the Los Angeles County Sheriff's Department and
15 Burbank City Attorney's office become involved. Plaintiff's request to bring
16 in the Los Angeles County Sheriff's Department was angrily denied. On or
17 about April or May 2009, Plaintiff informed the City Manager about the 2007
18 burglary and the Chief's failure to take appropriate action.

19 15. On or about April 22, 2009, Plaintiff was approached by City Manager Mike
20 Flad when Plaintiff was returning from lunch. Flad requested that Plaintiff tell him
21 everything "that was going on" in the Police Department and that Plaintiff would not be
22 punished for telling the truth. Plaintiff responded by informing Flad that there was
23 discrimination, sexual harassment and corruption going on within the Department.
24 Plaintiff specified that minority officers were being unfairly targeted for termination during
25 their probationary periods, and that there were multiple burglaries going on in the
26 Department in which officers were likely involved. Plaintiff also told Flad that Stehr was
27 trying to demote him. Plaintiff told Flad that Stehr said to him "I have to save myself, I
28 can't go out this way." Stehr was referring to complaints of sexual harassment, burglaries

1 and discrimination. Flad told Plaintiff, "I know you're the heir apparent (to become chief)
2 and subject to take shots, because I was the heir apparent and it happened to me.
3 Sometimes Bill, you have to take one for the team. It's almost a leadership development
4 thing for the number one's to throw the number two's under the bus when things go
5 wrong. It happened to me twice by Mary (former City Manager). When she did it to me I
6 almost quit, but I thought about it and just went along. Ultimately I became city manager.
7 Bill, I promise not to hold this against you, and I'll remember it when it comes time to
8 name the next chief." Plaintiff refused.

9 16. On or about April 30, 2009, Plaintiff and Flad were at a retirement party for
10 Council woman Marsha Romas. Flad approached Plaintiff and told Plaintiff that he had
11 found out about Lieutenant Rodriguez' lawsuit for discrimination. Flad said "Bill I
12 understand that Omar [Lt. Rodriguez] might use discrimination for the court thing, but
13 does the police department really have a discrimination problem? The question was
14 rhetorical and Flad expected Plaintiff to say no, proving Plaintiff's intent to support the City
15 in Rodriguez' lawsuit. When Plaintiff responded "Yes," Flad became silent and appeared
16 to be angry. Plaintiff urged Flad not to allow Stehr to retaliate against the minority officers
17 who were working in the detective bureau and who had complained about discrimination.

18 17. On or about May 4, 2009, Plaintiff was demoted from deputy chief to the
19 rank of captain. Stehr told Plaintiff if he wouldn't fight the demotion he would let Plaintiff
20 keep deputy chief pay for a few more months. Stehr also told Plaintiff that he had not
21 talked to Flad about the demotion, but had demoted Plaintiff on his own authority. Plaintiff
22 then immediately went to Flad's office and informed him of the demotion. Flad said he
23 had talked to Stehr during the weekend and that Flad had agreed to the demotion. Flad
24 told Plaintiff that his career was finished in Burbank, but "why don't you go over to
25 Glendale and become chief."

26 18. Defendants, and each of them, made, adopted, and/or enforced rules,
27 regulations, and/or policies designed to prevent employees from disclosing information to
28 a government or law enforcement agency, which Plaintiff had reasonable cause to believe

1 disclosed violations of state or federal statutes.

2 19. Defendants, and each of them, retaliated against Plaintiff for disclosing
3 information to the City of Burbank and the Burbank Police Department, government and/or
4 law enforcement agencies, which the Plaintiff had reasonable cause to believe disclosed
5 violations of state or federal statutes, or violations or noncompliance with state or federal
6 rules or regulations, including but not limited to: 1) denying Plaintiff future promotions; 2)
7 demoting Plaintiff; 3) denying Plaintiff transfers to coveted and/or favorable job positions
8 and assignments; subjecting Plaintiff to ostracism from Defendant and co-workers; 4)
9 removing from Plaintiff job responsibilities which would further Plaintiff's career; 5) denying
10 Plaintiff other employment benefits; 6) knowingly making false, misleading or malicious
11 statements regarding Plaintiff which were are reasonably calculated to harm or destroy
12 the reputation, authority or official standing of the Plaintiff; 7) denying Plaintiff a bonus; 8)
13 making false and unfounded complaints regarding Plaintiff's work performance; 9)
14 charging Plaintiff with false allegations of misconduct; 11) wrongfully fabricating
15 misconduct and instituting baseless IA investigations against Plaintiff in an attempt to
16 embarrass and accuse Plaintiff falsely of misconduct; and 10) other actions having a
17 substantial and material adverse effect on Plaintiff's employment.

18 20. A motivating reason for Defendants, and each of them, engaging in the
19 foregoing adverse employment actions against Plaintiff was to retaliate for the Plaintiff
20 engaging in the protected activities of disclosing information to the City of Burbank and
21 the Burbank Police Department, government and/or law enforcement agencies, which the
22 Plaintiff had reasonable cause to believe disclosed violations of state or federal statutes,
23 or violations or noncompliance with state or federal rules or regulations.

24 21. Defendants, and each of them, further retaliated against Plaintiff for refusing
25 to participate in activities that would result in a violation of state or federal statutes, or a
26 violation or noncompliance with a state or federal rules or regulations. Said actions of
27 retaliation were a direct violation of Labor Code Section 1102.5, and said violation shifts
28 the burden of proof onto Defendant to prove beyond clear and convincing evidence that

1 the adverse employment decisions mentioned herein were legitimate.

2 22. As a result of the aforesaid unlawful acts of Defendants, and each of them,
3 Plaintiff has lost and may continue to lose income, in an amount to be proven at time of
4 trial. Plaintiff claims such amount as damages together with prejudgment interest
5 pursuant to California Civil Code section 3287 and/or any other provision of law providing
6 for prejudgment interest.

7 23. As a further result of the aforesaid unlawful acts of Defendants, and each of
8 them, Plaintiff was personally humiliated and has become mentally upset, distressed and
9 aggravated. Plaintiff claims general damages for such mental distress and aggravation in
10 an amount of be proven at time of trial.

11 **SECOND CAUSE OF ACTION**

12 **FOR RETALIATION IN VIOLATION OF THE CALIFORNIA FAIR EMPLOYMENT AND**
13 **HOUSING ACT AGAINST DEFENDANTS, AND EACH OF THEM**

14 24. Plaintiff incorporates by reference the allegations of paragraphs 1 through
15 20 as if set forth in full herein.

16 25. The conduct as set forth above, more specifically in paragraph 14a & b,
17 constituted retaliation thereby creating a continuing violation actionable under, among
18 other things, California Government Code section 12940. et seq. Further, after Plaintiff
19 filed his charge of retaliation under the FEHA on June 15, 2009, and filed a lawsuit based
20 upon his claims of unlawful retaliation on September 22, 2009, he was subjected to further
21 retaliation when he was terminated from his employment as a Captain in the Burbank
22 Police Department.

23 26. The aforementioned unlawful employment practices on the part of
24 Defendants, and each of them, were a substantial factor in causing damages and injuries
25 to Plaintiff as set forth below.

26 27. Plaintiff has duly filed administrative complaints with the California
27 Department of Fair Employment and Housing ("DFEH") substantially alleging the acts and
28 conduct of Defendants as herein above described. The Department issued a "right-to-

1 sue" notice on or about June 15, 2009 and June 10, 2010. A true and correct copy of said
2 notices are attached hereto as Exhibits "1" and "2".

3 28. As a result of the aforesaid unlawful acts of Defendants, and each of them,
4 Plaintiff has lost and will continue to lose income (including pension income), in an amount
5 to be proven at time of trial. Further, Plaintiff will lose benefits such as loss of insurance,
6 loss of concealed weapon permit, and loss of his retirement badge. Plaintiff claims such
7 amount as damages together with prejudgment interest pursuant to California Civil Code
8 section 3287 and/or any other provision of law providing for prejudgment interest.

9 29. As a further result of the aforesaid unlawful acts of Defendants, and each of
10 them, Plaintiff was personally humiliated and has become mentally upset, distressed and
11 aggravated. Plaintiff claims general damages for such mental distress and aggravation in
12 an amount of be proven at time of trial.

13 **WHEREFORE**, Plaintiff seeks judgment against all Defendants, and each of them,
14 on all Causes of Action for:

15 1. Actual, consequential and incidental losses, including but not limited to loss
16 of income, loss of future employment, benefits and medical expenses, according to proof,
17 together with prejudgment interest;

18 2. General damages for emotional distress and mental suffering in a sum
19 according to proof;

20 3. Plaintiff requests injunctive relief to restore his permit to carry a concealed
21 weapon, that his records be expunged to show no discipline as a result of the adverse
22 actions taken against him as set forth in this lawsuit, and that he be provided with a
23 retirement badge and ID from the City of Burbank reflecting his retirement in good
24 standing from the Burbank Police Department as a Deputy Chief;

25 4. Attorneys fees pursuant California Government Code §12965 (b);

26 5. Costs of suit herein; and

27 6. Such other and further relief as the Court may deem proper.

28

1 Dated: January 11, 2011

LAW OFFICES OF GREGORY W. SMITH

2
3 By:



GREGORY W. SMITH
Attorneys for Plaintiff
WILLIAM TAYLOR

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EXHIBIT "1"

0012

COPY

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CITY CLERK
CITY OF BURBANK

7 Attorneys for Claimant
8 WILLIAM H. TAYLOR

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STATE OF CALIFORNIA
GOVERNMENT CLAIM

WILLIAM H. TAYLOR,
Claimant,

vs.

CITY OF BURBANK, AND DOES 1
THROUGH 400, INCLUSIVE,

Respondent.

GOVERNMENT CLAIM FOR DAMAGES
PURSUANT TO GOVERNMENT CODE
SECTIONS 905 and 910, ET SEQ.

Pursuant to the provisions of Sections 905 and 910 et seq. of the California
Government Code, demand is hereby made against Respondents in an amount in excess
of the jurisdictional limits of the Superior Court of the State of California. In support of said
claim, on information and belief, the following information is submitted:

1. CLAIMANT: William H. Taylor, c/o Law Offices of Smith & Lipow, 9952
Santa Monica Blvd., First Floor, Beverly Hills, California 90212, Tel. (310)
282-0507.

2. ADDRESS TO WHICH NOTICE OR COMMUNICATION SHOULD BE SENT
REGARDING CLAIM:

Law Offices of Smith & Lipow, 9952 Santa Monica Blvd., First Floor, Beverly

-1-

GOVERNMENT CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE SECTIONS 905 and 910, ET SEQ.

EX 1

0013

1 Hills, California 90212, Tel. (310) 282-0507.

2 3. TIMELINESS OF CLAIM

3
4 Claimant has timely filed a Government Claim within six months of the
5 adverse employment actions taken against Claimant as a result of reporting illegal
6 activities as set forth below.

7 4. CIRCUMSTANCES OF THE INCIDENT

8
9 Claimant, a sworn officer, was employed by the Burbank Police Department
10 and held the rank of Deputy Chief.

11 During March 2008, a sworn employee of the Burbank Police Department
12 was accused of sexually harassing numerous females at the Burbank Animal Shelter.
13 The employee was accused of inappropriate sexual comments and gestures. When
14 Claimant was notified of the allegations of sexual harassment, he recommended to Chief
15 of Police Tim Stehr that the employee be placed on administrative leave pending an
16 investigation. Chief of Police Stehr became agitated and demanded that the employee
17 not be placed on administrative leave for a long period of time and ultimately directed
18 Claimant to bring the employee back to work prematurely before sufficient investigation
19 had been undertaken. Claimant informed the City Manager about this incident and that it
20 was handled inappropriately on or about April or May 2008.

21 Claimant repeatedly complained from April 2008 through April 2009, to Stehr
22 that minority (African-American and Hispanic) probationary police officers were being
23 singled out by the Patrol Captain at the time, and some of his staff, for termination on
24 account of their race. Claimant was able to stop the terminations by refusing to support
25 the record that had been unjustly prepared to support the potential terminations. At the
26 time, Claimant had a good faith and reasonable belief that the unjust attempts to terminate
27 minority probationary officers was a violation of federal and state statutes and law
28 (specifically Government Code sections 12940 et. seq.).

On or about April or May 2009, Claimant informed the City Manager that

1 some department personnel were attempting to unfairly terminate probationary minority
2 officers.

3 In or about January 2007, an IA investigation had been initiated based upon
4 an allegation that a lieutenant, while he held the rank of sergeant, had used excessive
5 force against a suspect. The investigation was conducted, interviews were taken, and
6 evidence was gathered. In or around 2007 all of the documents, flash drive and interview
7 tapes pertaining to the case that were stored in a locked office in the Burbank Police
8 Department were stolen. The theft could have only been committed by an employee of
9 the Burbank Police Department. In a memo to Stehr dated November 19, 2007, Claimant
10 requested that an outside agency be contacted and brought into the Burbank Police
11 Department to investigate what appeared to be a burglary within the Department by
12 Department employees. In the memo, Claimant specifically requested that the Los
13 Angeles County Sheriff's Department and Burbank City Attorney's office become involved.
14 Claimant's request to bring in the Los Angeles County Sheriff's Department was angrily
15 denied. On or about April or May 2008, Claimant informed the City Manager about the
16 2007 burglary and the Chief's failure to take appropriate action.
17

18 As a result of the complaints alleged above to the City manager and Chief
19 Stehr, Complainant was demoted from the rank of police Deputy Chief to police Captain.
20

21
22 5. GENERAL DESCRIPTION OF INJURY

23 Claimant alleges that respondents, and each of them, are agents, servants
24 and/or employees of the remaining respondents, and at all relevant times were acting
25 within the course and scope of said agency, service and/or employment.

26 Claimant alleges that the conduct described herein is a violation of
27 numerous state and federal laws and regulations. Further, Claimant alleges that the
28

1 conduct described herein violates California Labor Code section 1102.5, and California
2 Government Code sections 8547 and 12653, and as an actual and proximate result of
3 said conduct Claimant suffered emotional distress, loss of past and future earnings, loss
4 of bonus, loss of ability to promote to the position of Chief of Police. Claimant also claims
5 attorney's fees under the applicable provisions.

6
7 8. AMOUNTS CLAIMED:

8 The amount claimed for the wrongful acts and the causes of action stated
9 herein are presently unascertainable, but will be no less than one thousand dollars
10 (\$1,000), in accordance with Section 54.3 of the California Civil Code, and is in an amount
11 to be assessed in accordance with proof at the time of trial. However, pursuant to
12 amended Government Code §910(f), the amount claimed will necessarily lie within the
13 jurisdiction of the Superior Court and unlimited jurisdiction.
14

15 Claimant claims attorney's fees and costs as provided by statute.

16
17
18 Dated: July 29, 2009

SMITH & LIPOW

19 By:

20 GREGORY W. SMITH
21 Attorneys for Claimant
22 BILL TAYLOR
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is 9952 Santa Monica Boulevard, 1st Floor, Beverly Hills, California 90212.

On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action by placing the original thereof enclosed in sealed envelopes, at Beverly Hills, addressed as follows:

DATE OF SERVICE : July 30, 2009

DOCUMENT SERVED : GOVERNMENT CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE SECTIONS 905 and 910, ET SEQ.

PARTIES SERVED : Office of the City Clerk
City of Burbank
275 East Olive Avenue
P.O. Box 6459
Burbank, California 91510-6459

XXX (BY REGULAR MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Beverly Hills, California. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

— (BY PERSONAL SERVICE) I personally delivered by hand to the offices of the addressee(s).

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Beverly Hills, California on July 30, 2009.


Berna L. Francia

GOVERNMENT CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE SECTIONS 905 and 910, ET SEQ.



EXHIBIT "2"

0018

COPY

RECEIVED

10 JUN -4 PM 12: 37

CITY CLERK
CITY OF BURBANK

GREGORY W. SMITH (SBN 134385)
LAW OFFICES OF GREGORY W. SMITH
6300 Canoga Avenue, Suite 1590
Woodland Hills, California 91367
Telephone: (818) 712-4000
(213) 385-3400
Telecopier: (818) 712-4004

Attorneys for Claimant
WILLIAM H. TAYLOR

STATE OF CALIFORNIA
GOVERNMENT CLAIM

WILLIAM H. TAYLOR,
Claimant,

vs.

CITY OF BURBANK, AND DOES 1
THROUGH 400, INCLUSIVE,
Respondent.

GOVERNMENT CLAIM FOR DAMAGES
PURSUANT TO GOVERNMENT CODE
SECTIONS 905 and 910, ET SEQ.

Pursuant to the provisions of Sections 905 and 910 et seq. of the California Government Code, demand is hereby made against Respondents in an amount in excess of the jurisdictional limits of the Superior Court of the State of California. In support of said claim, on information and belief, the following information is submitted:

1. CLAIMANT: William H. Taylor, c/o Law Offices of Gregory W. Smith, 6300 Canoga Avenue, Suite 1590, Woodland Hills, California 91367, Tel. (818) 712-4000.

2. ADDRESS TO WHICH NOTICE OR COMMUNICATION SHOULD BE SENT REGARDING CLAIM:

Law Offices of Gregory W. Smith, 6300 Canoga Avenue, Suite 1590,

-1-

GOVERNMENT CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE SECTIONS 905 and 910, ET SEQ.

0019

EL2

1 Woodland Hills, California 91367, Tel. (818) 712-4000.

2
3 **3. TIMELINESS OF CLAIM**

4 Claimant has timely filed a Government Claim within six months of the
5 adverse employment actions taken against Claimant as a result of reporting illegal
6 activities as set forth below.

7
8 **4. CIRCUMSTANCES OF THE INCIDENT**

9 Claimant, a sworn officer, was employed by the Burbank Police Department
10 and held the rank of Deputy Chief. Claimant was later demoted to the rank of Captain.
11 On or about January 7, 2010, Claimant was denied the position of Chief of Police for the
12 City of Burbank based upon the following reasons:

13 During March 2009, a sworn employee of the Burbank Police Department
14 was accused of sexually harassing numerous females at the Burbank Animal Shelter.
15 The employee was accused of inappropriate sexual comments and gestures. When
16 Claimant was notified of the allegations of sexual harassment, he recommended to Chief
17 of Police Tim Stehr that the employee be placed on administrative leave pending an
18 investigation. Chief of Police Stehr became agitated and demanded that the employee
19 not be placed on administrative leave for a long period of time and ultimately directed
20 Claimant to bring the employee back to work prematurely before sufficient investigation
21 had been undertaken. Claimant informed the City Manager about this incident and that it
22 was handled inappropriately on or about April or May 2009.

23 Claimant repeatedly complained from April 2008 through April 2009, to Stehr
24 that minority (African-American and Hispanic) probationary police officers were being
25 singled out by the Patrol Captain at the time, and some of his staff, for termination on
26 account of their race. Claimant was able to stop the terminations by refusing to support
27 the record that had been unjustly prepared to support the potential terminations. At the
28 time, Claimant had a good faith and reasonable belief that the unjust attempts to terminate
minority probationary officers was a violation of federal and state statutes and law

1 (specifically Government Code sections 12940 et. seq.).

2 On or about April or May 2009, Claimant informed the City Manager that
3 some department personnel were attempting to unfairly terminate probationary minority
4 officers.

5 In or about January 2007, an IA investigation had been initiated based upon
6 an allegation that a lieutenant, while he held the rank of sergeant, had used excessive
7 force against a suspect. The investigation was conducted, interviews were taken, and
8 evidence was gathered. In or around 2007 all of the documents, flash drive and interview
9 tapes pertaining to the case that were stored in a locked office in the Burbank Police
10 Department were stolen. The theft could have only been committed by an employee of
11 the Burbank Police Department. In a memo to Stehr dated November 19, 2007, Claimant
12 requested that an outside agency be contacted and brought into the Burbank Police
13 Department to investigate what appeared to be a burglary within the Department by
14 Department employees. In the memo, Claimant specifically requested that the Los
15 Angeles County Sheriff's Department and Burbank City Attorney's office become involved.
16 Claimant's request to bring in the Los Angeles County Sheriff's Department was angrily
17 denied. On or about April or May 2009, Claimant informed the City Manager about the
18 2007 burglary and the Chief's failure to take appropriate action.
19

20 On or about July 30, 2009, Claimant filed a Government Claim against the
21 City of Burbank essentially alleging the misconduct stated above.
22

23 As a result of the complaints alleged above to the City manager and Chief
24 Stehr, and the July 30, 2009 Government Claim, Complainant was denied promotion to
25 the rank of Deputy Chief.

26 ///

27 ///

1 5. GENERAL DESCRIPTION OF INJURY

2 Claimant alleges that respondents, and each of them, are agents, servants
3 and/or employees of the remaining respondents, and at all relevant times were acting
4 within the course and scope of said agency, service and/or employment.

5 Claimant alleges that the conduct described herein is a violation of
6 numerous state and federal laws and regulations. Further, Claimant alleges that the
7 conduct described herein violates California Labor Code section 1102.5, and California
8 Government Code sections 8547 and 12653, and as an actual and proximate result of
9 said conduct Claimant suffered emotional distress, loss of past and future earnings, loss
10 of bonus, denial of the position of Chief of Police. Claimant also claims attorney's fees
11 under the applicable provisions.
12

13
14 6. AMOUNTS CLAIMED:

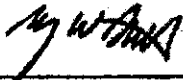
15 The amount claimed for the wrongful acts and the causes of action stated
16 herein are presently unascertainable, but will be no less than one thousand dollars
17 (\$1,000), in accordance with Section 54.3 of the California Civil Code, and is in an amount
18 to be assessed in accordance with proof at the time of trial. However, pursuant to
19 amended Government Code §910(f), the amount claimed will necessarily lie within the
20 jurisdiction of the Superior Court and unlimited jurisdiction.
21

22 Claimant claims attorney's fees and costs as provided by statute.
23

24
25 Dated: June 4, 2010

LAW OFFICES OF GREGORY W. SMITH

26
27 By:



GREGORY W. SMITH
Attorneys for Claimant
BILL TAYLOR

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is Messenger Express, 5503 Cahuenga Boulevard, Suite 100, North Hollywood, California 91601-2920.

On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action, the original thereof enclosed in sealed envelopes, at Woodland Hills, addressed as follows:

DATE OF SERVICE : June 4, 2010

DOCUMENT SERVED : GOVERNMENT CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE SECTIONS 905 and 910, ET SEQ.

PARTIES SERVED : Office of the City Clerk
City of Burbank
275 East Olive Avenue
P.O. Box 8459
Burbank, California 91510-8459

XXX (BY PERSONAL SERVICE) I personally delivered by hand to the offices of the addressee(s).

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Woodland Hills, California on June 4, 2010.

(Signature)
Print Name: MILTA MARDONAN



EXHIBIT "3"

COPY

RECEIVED
10 SEP 13 AM 11:21
CITY CLERK
CITY OF BURBANK

1 GREGORY W. SMITH (SBN 134385)
2 LAW OFFICES OF GREGORY W. SMITH
3 6300 Canoga Avenue, Suite 1590
4 Woodland Hills, California 91367
5 Telephone: (818) 712-4000
6 (213) 385-3400
7 Telecopier: (818) 712-4004

8 Attorneys for Claimant
9 WILLIAM H. TAYLOR

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STATE OF CALIFORNIA
GOVERNMENT CLAIM

WILLIAM H. TAYLOR,
Claimant,

vs.

CITY OF BURBANK, AND DOES 1
THROUGH 400, INCLUSIVE,
Respondent.

SECOND AMENDED GOVERNMENT
CLAIM FOR DAMAGES PURSUANT
TO GOVERNMENT CODE SECTIONS
905 and 910, ET SEQ.

Pursuant to the provisions of Sections 905 and 910 et seq. of the California
Government Code, demand is hereby made against Respondents in an amount in excess
of the jurisdictional limits of the Superior Court of the State of California. In support of said
claim, on information and belief, the following information is submitted:

1. CLAIMANT: William H. Taylor, c/o Law Offices of Gregory W. Smith, 6300
Canoga Avenue, Suite 1590, Woodland Hills, California 91367, Tel. (818)
712-4000.

2. ADDRESS TO WHICH NOTICE OR COMMUNICATION SHOULD BE SENT
REGARDING CLAIM:

Law Offices of Gregory W. Smith, 6300 Canoga Avenue, Suite 1590,

-1-

GOVERNMENT CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE SECTIONS 905 and 910, ET SEQ.

EX3

0025

1 Woodland Hills, California 91367, Tel. (818) 712-4000.

2
3 3. TIMELINESS OF CLAIM

4 Claimant has timely filed a Government Claim within six months of the
5 adverse employment actions taken against Claimant as a result of reporting illegal
6 activities as set forth below.

7
8 4. CIRCUMSTANCES OF THE INCIDENT

9 Claimant, a sworn officer, was employed by the Burbank Police Department
10 and held the rank of Deputy Chief. Claimant was later demoted to the rank of Captain.
11 On or about January 7, 2010, Claimant was denied the position of Chief of Police for the
12 City of Burbank based upon the following reasons:

13 During March 2009, a sworn employee of the Burbank Police Department
14 was accused of sexually harassing numerous females at the Burbank Animal Shelter.
15 The employee was accused of inappropriate sexual comments and gestures. When
16 Claimant was notified of the allegations of sexual harassment, he recommended to Chief
17 of Police Tim Stehr that the employee be placed on administrative leave pending an
18 investigation. Chief of Police Stehr became agitated and demanded that the employee
19 not be placed on administrative leave for a long period of time and ultimately directed
20 Claimant to bring the employee back to work prematurely before sufficient investigation
21 had been undertaken. Claimant informed the City Manager about this incident and that it
22 was handled inappropriately on or about April or May 2009.

23 Claimant repeatedly complained from April 2008 through April 2009, to Stehr
24 that minority (African-American and Hispanic) probationary police officers were being
25 singled out by the Patrol Captain at the time, and some of his staff, for termination on
26 account of their race. Claimant was able to stop the terminations by refusing to support
27 the record that had been unjustly prepared to support the potential terminations. At the
28 time, Claimant had a good faith and reasonable belief that the unjust attempts to terminate
minority probationary officers was a violation of federal and state statutes and law

1 (specifically Government Code sections 12940 et. seq.).

2 On or about April or May 2009, Claimant informed the City Manager that
3 some department personnel were attempting to unfairly terminate probationary minority
4 officers.

5 In or about January 2007, an IA investigation had been initiated based upon
6 an allegation that a lieutenant, while he held the rank of sergeant, had used excessive
7 force against a suspect. The investigation was conducted, interviews were taken, and
8 evidence was gathered. In or around 2007 all of the documents, flash drive and interview
9 tapes pertaining to the case that were stored in a locked office in the Burbank Police
10 Department were stolen. The theft could have only been committed by an employee of
11 the Burbank Police Department. In a memo to Stehr dated November 19, 2007, Claimant
12 requested that an outside agency be contacted and brought into the Burbank Police
13 Department to investigate what appeared to be a burglary within the Department by
14 Department employees. In the memo, Claimant specifically requested that the Los
15 Angeles County Sheriff's Department and Burbank City Attorney's office become involved.
16 Claimant's request to bring in the Los Angeles County Sheriff's Department was angrily
17 denied. On or about April or May 2009, Claimant informed the City Manager about the
18 2007 burglary and the Chief's failure to take appropriate action.
19

20 On or about July 30, 2009, Claimant filed a Government Claim against the
21 City of Burbank essentially alleging the misconduct stated above. Claimant also filed a
22 DFEH Charge alleging retaliation for reporting incidents of discrimination and sexual
23 harassment.
24

25 As a result of the complaints alleged above to the City manager and Chief
26 Stehr, the July 30, 2009 Government Claim and DFEH Charge, and the June 4, 2010
27 Government Claim, Complainant was wrongfully terminated on June 10, 2010.
28

1 5. GENERAL DESCRIPTION OF INJURY

2 Claimant alleges that respondents, and each of them, are agents, servants
3 and/or employees of the remaining respondents, and at all relevant times were acting
4 within the course and scope of said agency, service and/or employment.

5 Claimant alleges that the conduct described herein is a violation of
6 numerous state and federal laws and regulations. Further, Claimant alleges that the
7 conduct described herein violates California Labor Code section 1102.5, and California
8 Government Code sections 8547 and 12653, and as an actual and proximate result of
9 said conduct Claimant suffered emotional distress, loss of past and future earnings, loss
10 of bonus, denial of the position of Chief of Police. Claimant also claims attorney's fees
11 under the applicable provisions.
12

13
14 6. AMOUNTS CLAIMED:


15 The amount claimed for the wrongful acts and the causes of action stated
16 herein are presently unascertainable, but will be no less than one thousand dollars
17 (\$1,000), in accordance with Section 54.3 of the California Civil Code, and is in an amount
18 to be assessed in accordance with proof at the time of trial. However, pursuant to
19 amended Government Code §910(f), the amount claimed will necessarily lie within the
20 jurisdiction of the Superior Court and unlimited jurisdiction.
21

22 Claimant claims attorney's fees and costs as provided by statute.
23

24
25 Dated: August 27, 2010

LAW OFFICES OF GREGORY W. SMITH

26
27 By:



GREGORY W. SMITH
Attorneys for Claimant
BILL TAYLOR

PROOF OF SERVICE

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is 6300 Canoga Avenue, Suite 1590, Woodland Hills, California 91367.

On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action by placing the original thereof enclosed in sealed envelopes, at Woodland Hills, addressed as follows:

DATE OF SERVICE : September 3, 2010

DOCUMENT SERVED : **SECOND AMENDED GOVERNMENT CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE SECTIONS 905 and 910, ET SEQ.**

PARTIES SERVED : Office of the City Clerk
City of Burbank
275 East Olive Avenue
P.O. Box 6459
Burbank, California 91510-6459

XXX (BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Woodland Hills, California. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

— (BY PERSONAL SERVICE) I personally delivered by hand to the offices of the addressee(s).

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Beverly Hills, California on September 3, 2010.

Selma I. Francia



EXHIBIT "4"

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1055 West 7th Street, Suite 1400 |
(213) 439-8700
www.dfeh.ca.gov



June 15, 2009

TAYLOR, WILLIAM
9952 SANTA MONICA BOULEVARD, 1ST FLOOR
BEVERLY HILLS, CA 90212

RE: E200809S8087-00
TAYLOR/CITY OF BURBANK (BPD)

Dear TAYLOR, WILLIAM:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective June 15, 2009 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.


If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

EX4

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,



Lottie Woodruff
District Administrator

cc: Case File

TIMOTHY STEHR
CHIEF OF POLICE
BURBANK POLICE DEPARTMENT
200 NORTH THIRD STREET
BURBANK, CA 91502

DFEH-200-43 (08/06)

0032



EXHIBIT "5"

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1055 WEST 7TH STREET, SUITE 1400, LOS ANGELES, CA 90017
(213) 439-6700

www.dfeh.ca.gov



June 10, 2010

TAYLOR, WILLIAM
6300 CANOGA AVE. SUITE 1590
WOODLAND HILLS, CA 91367

RE: E200910S6532-00
TAYLOR/CITY OF BURBANK (BPD)

Dear TAYLOR, WILLIAM:

**SUPPLEMENTAL
NOTICE OF CASE CLOSURE**

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective June 10, 2010 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

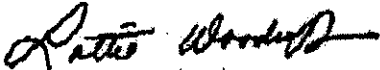
EX-5

0034

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,



Lottie Woodruff
District Administrator

cc: Case File

N/A N/A
N/A
CITY OF BURBANK
200 NORTH THIRD STREET
BURBANK, CA 91502

DFEH-200-43 (08/06)

0035

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA)

3 COUNTY OF LOS ANGELES)

4
5 I am employed in the County of Los Angeles, State of California. I am over the age
6 of 18 years of age, and am not a party to the within action; my business address is 9100
7 Wilshire Boulevard, Suite 345E, Beverly Hills, California 90212.

8 On the date hereinbelow specified, I served the foregoing document, described as
9 set forth below on the interested parties in this action by placing true copies thereof
10 enclosed in sealed envelopes, at Beverly Hills, addressed as follows:

11 DATE OF SERVICE : January 12, 2011

12 DOCUMENT SERVED : FIRST AMENDED COMPLAINT FOR DAMAGES

13 PARTIES SERVED : SEE ATTACHED SERVICE LIST.

14 XXX (BY REGULAR MAIL) I caused such envelope(s) with postage thereon fully prepaid
15 to be placed in the United States mail at Beverly Hills, California. I am "readily
16 familiar" with firm's practice of collection and processing correspondence for
17 mailing. It is deposited with U.S. postal service on that same day in the ordinary
18 course of business. I am aware that on motion of party served, service is
19 presumed invalid if postal cancellation date or postage meter date is more than one
20 day after date of deposit for mailing in affidavit.

21 XXX (BY ELECTRONIC MAIL) I caused such document to be electronically mailed to
22 Christopher Brizzolara, Esq. at the following e-mail address:
23 samorai@adelphia.net.

24 XXX (STATE) I declare under penalty of perjury under the laws of the State of California
25 that the above is true and correct.

26 (FEDERAL) I declare that I am employed in the office of a member of the bar of this
27 court at whose direction the service was made.

28 EXECUTED at Beverly Hills, California on January 12, 2011.


Selma L. Francia

SERVICE LIST

WILLIAM TAYLOR v. CITY OF BURBANK
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. BC 422 252

Christopher Brizzolara, Esq.
1528 16th Street
Santa Monica, California 90404
(By Electronic Mail Only)

Kristin A. Pelletier, Esq.
Burke Williams & Sorenson LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071-2953

Dennis A. Barlow, City Attorney
Carol A. Humiston, Sr. Asst. City Atty.
Office of the City Attorney
City of Burbank
275 East Olive Avenue
Post Office Box 6459
Burbank, California 91510

Linda Miller Savitt, Esq.
Philip L. Reznik, Esq.
Ballard Rosenberg Golper & Savitt LLP
500 North Brand Boulevard, 20th Floor
Glendale, California 91203-9946

PROOF OF SERVICE BY MAIL

1. I am employed in the County of Los Angeles, State of California and over the age of eighteen years. I am not a party to the within action. My business address is 21700 Oxnard Street, Suite 1290, Woodland Hills, California 91367.

2. I served the document(s) listed below by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid, addressed as follows:

Date Served: February 11, 2011

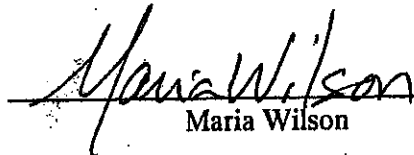
Document Served: RETURN TO PETITION FOR WRIT OF MANDATE,
PROHIBITION OR OTHER APPROPRIATE RELIEF

Parties Served:

See attached Service List.

I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Woodland Hills, California on the aforesaid date.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 11, 2011, at Woodland Hills, California.


Maria Wilson

Service List

Christopher Brizzolara Co-counsel for Real Party In Interest
1528 16th Street
Santa Monica, California 90404

Gregory W. Smith Co-counsel for Real Party In Interest
Law Offices of Gregory W Smith
9100 Wilshire Blvd., Suite 345E
Beverly Hills, California 90212

Frederick Bennett Counsel for Respondent
Los Angeles Superior Court
111 North Hill Street, Room 546
Los Angeles, California 90012

Hon. John Shepard Wiley Respondent Trial Judge
Los Angeles Superior Court
111 North Hill Street, Dept. 50
Los Angeles, California 90012

Michael P. Stone Counsel for Petitioners
Stone Basailuh, LLP
200 East Del Mar Boulevard, Suite 350
Pasadena, California 91105

Ronald F. Frank Counsel for Petitioners
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is 9100 Wilshire Boulevard, Suite 345E, Beverly Hills, California 90212.

On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes, at Beverly Hills, addressed as follows:

DATE OF SERVICE : June 29, 2012

DOCUMENT SERVED : **REPLY DECLARATION OF DOUGLAS G. BENEDON
IN SUPPORT OF ATTORNEYS' FEES MOTION**

PARTIES SERVED : **SEE ATTACHED SERVICE LIST.**

XXX (BY FEDERAL EXPRESS) I caused the aforesaid document(s) to be delivered to Federal Express either by an authorized courier of Federal Express or by delivery to an authorized Federal Express office in a pre-paid envelope for overnight delivery to the addressee(s) as shown on the Service List.

XXX (BY ELECTRONIC MAIL) I caused such document to be electronically mailed to **Christopher Brizzolara, Esq.** at the following e-mail address: samorai@adelphia.net.

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Beverly Hills, California on June 29, 2012.

Selma I. Francia

SERVICE LIST

WILLIAM TAYLOR v. CITY OF BURBANK
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. BC 422 252

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